

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
GERALDINE A. FREEMAN, Cal. Bar No. 111483  
2 DAVID A. DeGROOT, Cal. Bar No. 168073  
Four Embarcadero Center, 17th Floor  
3 San Francisco, California 94111-4109  
Telephone: 415-434-9100  
4 Facsimile: 415-434-3947  
E-mail: ddegroot@sheppardmullin.com

5 Attorneys for Plaintiff and Counter-defendant  
6 COMERICA BANK

7 KELLY, HERLIHY, & KLEIN, L.L.P.  
John C. Ferry, Cal. Bar. No. 104411  
8 44 Montgomery Street, Suite 2500  
San Francisco, California 94104  
9 Telephone: (415) 951-0535  
Facsimile: (415) 391-7808

10 FIGARI & DAVENPORT, L.L.P.  
(Admitted *Pro Hac Vice*)  
Don Colleluori, Texas State Bar No. 04581950  
12 Andrew P. Speicher, Texas State Bar No. 24027878  
3400 Bank of America Plaza  
13 901 Main Street  
Dallas, Texas 75202  
14 Telephone: (214) 939-2000  
Facsimile: (214) 939-2090

**\*E-FILED - 4/10/08\***

15 Attorneys for Defendants/Counter-Plaintiffs  
16 MICHAEL L. McDONALD and ALAN P. McDONALD

17 UNITED STATES DISTRICT COURT  
18 NORTHERN DISTRICT OF CALIFORNIA  
19 SAN JOSE DIVISION

20 COMERICA BANK, a Michigan banking  
21 corporation,

22 Plaintiff,

23 v.

24 MICHAEL L. McDONALD and ALAN P.  
McDONALD,

25 Defendants.

26  
27 AND RELATED CROSS-ACTION.  
28

Case No. C 06-03735 RMW (RS)

The Hon. Ronald M. Whyte

**STIPULATION AND []  
ORDER OF DISMISSAL WITH  
PREJUDICE**

[Complaint Filed: June 12, 2006]

**STIPULATION AND ~~PROPOSED~~ ORDER OF DISMISSAL**

IT IS HEREBY STIPULATED, by and between plaintiff and counterclaim defendant Comerica Bank ("Comerica"), and defendants and counterclaimants Michael L. McDonald and Alan P. McDonald (collectively, "McDonalds"), that:

1. Comerica and the McDonalds have settled their dispute.
2. Pursuant to Fed. R. Civ. P. 41(a), Comerica and the McDonalds now stipulate to the dismissal of all of their claims against each other in the Lawsuit with prejudice.
3. Each party will bear its own legal expenses, including without limitation, attorneys' fees and costs.

Dated: March 26, 2008

Respectfully submitted,

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By /s/ David A. DeGroot  
Attorneys for Plaintiff and Counter-defendant  
COMERICA BANK

Dated: March 26, 2008

FIGARI & DAVENPORT, L.L.P.

By /s/ Don Colleluori  
Attorneys for Defendants and Counterclaimants  
MICHAEL L. McDONALD  
and ALAN P. McDONALD

1  
2 *Filer's Attestation: Pursuant to General Order No. 45, Section X(B), David A. DeGroot*  
3 *hereby attests that the signatories' concurrences in the filing of this document have been*  
4 *obtained.*

5 **PURSUANT TO THE ABOVE STIPULATION, IT IS HEREBY ORDERED:**

6 1. Pursuant to Fed. R. Civ. P. 41(a), Comerica's complaint against the  
7 McDonalds and the McDonalds' counterclaim against Comerica are hereby dismissed with  
8 prejudice.

9 2. Each party will bear its own legal expenses, including without limitation,  
10 attorneys' fees and costs.

11 Dated: 4/10/08

12 

13 

---

UNITED STATES DISTRICT COURT JUDGE